

Article 6 Development Permits

Division 5: Site Development Permit Procedures

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0501 Purpose of the Site Development Permit Procedures

The purpose of the Site Development Permit procedures is to establish a review process for proposed *development* that, because of its site, location, size, or some other characteristic, may have significant impacts on resources or on the surrounding area, even if developed in conformance with all regulations. The intent of these procedures is to apply site-specific conditions as necessary to assure that the *development* does not adversely affect the applicable *land use plan* and to help ensure that all regulations are met.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0502 When a Site Development Permit Is Required

- (a) A Site Development Permit decided in accordance with Process Three is required where *environmentally sensitive lands* are present for the following types of development.
 - (1) City public works projects on a *premises* containing *environmentally sensitive lands*, as described in Section 143.0110.
 - (2) *Single dwelling unit development* that involves any of the following:
 - (A) *Development* on a *premises* containing *sensitive coastal bluffs* or *coastal beaches*, as described in Section 143.0110;
 - (B) *Development* on *lots* greater than 15,000 square feet containing *sensitive biological resources*, *steep hillsides*, or *100-year floodplains* as described in Section 143.0110;
 - (C) *Development* on *lots* less than or equal to 15,000 square feet that are joined in ownership to a contiguous *lot* so that the total area of contiguous ownership exceeds 15,000 square feet where *sensitive biological resources*, *steep hillsides*, or *floodplains* are present, as described in Section 143.0110.

- (3) Multiple unit residential *development* on a *premises* containing *environmentally sensitive lands*, as described in Section 143.0110.
- (4) Commercial *development* on a *premises* containing *environmentally sensitive lands*, as described in Section 143.0110.
- (5) Industrial *development* on a *premises* containing *environmentally sensitive lands*, as described in Section 143.0110.
- (b) A Site Development Permit decided in accordance with Process Three is required for residential *development* that involves any of the following:
- (1) *Development* with an affordable housing *density* bonus within the RE, RS, RX, RT, and AR zones.
- (2) *Development* of *mobilehome parks* within the RS or RX zones, as described in Section 143.0302.
- (3) Within the Mobilehome Park Overlay Zone, discontinuance of a *mobilehome park*, as described in Section 143.0630.
- (4) Within any multiple unit residential zone, multiple unit residential *development* that exceeds the number of dwelling units indicated in Table 126-05A on *lots* which are consolidated or otherwise joined together for the purpose of accommodating the *development*.

Table 126-05A
Multiple Dwelling Unit Developments
Requiring a Site Development Permit

| Multiple dwelling unit zones | Number of dwelling units on consolidated lots |
|------------------------------|---|
| RM-1-1 | 3 Dwelling Units |
| RM-1-2 | 4 Dwelling Units |
| RM-1-3 | 7 Dwelling Units |
| RM-2-4 | 9 Dwelling Units |
| RM-2-5 | 11 Dwelling Units |
| RM-2-6 | 16 Dwelling Units |
| RM-3-7 | 19 Dwelling Units |
| RM-3-8 | 20 Dwelling Units |
| RM-3-9 | 20 Dwelling Units |
| RM-4-10 | 20 Dwelling Units |
| RM-4-11 | 20 Dwelling Units |

- (5) Multiple unit residential *development* that varies from minimum parking requirements, as described in Section 142.0525(a).
- (c) A Site Development Permit decided in accordance with Process Three is required for the following types of development.
- (1) In the Community Plan Implementation Overlay Zone, as described in Section 132.1402, *development* in the area designated "Type B" or *development* in the area designated "Type A" that does not comply with the *development* standards in the applicable community plan.
- (2) *Development* in the Mission Trails Design District, as described in Section 132.1202.
- (3) *Development* in the Urban Village Overlay Zone, as described in Section 132.1102.
- (4) *Public improvements* required in association with private *development* that involve *development* of more than 3,000 feet of property frontage, as described in Section 142.0612.

- (5) *Public improvements* required in association with private *development* for which adopted City standards do not apply, as described in Section 142.0612.
 - (6) *Development* of manufactured slopes at a gradient steeper than 25 percent (4 horizontal feet to 1 vertical foot) and a height of 25 feet or more as described in Section 142.0103.
 - (7) Nonresidential *development* that varies from the minimum parking requirements by proposing a Transportation Demand Management Plan, as described in Section 142.0540(c).
- (d) A Site Development Permit decided in accordance Process Four is required for the following types of development.
- (1) Within *historical districts* or when *designated historical resources* are present, unless exempt under Section 143.0220:
 - (A) *Subdivisions*;
 - (B) Single or multiple unit residential *development*;
 - (C) Commercial or industrial *development*;
 - (D) Public works projects; and
 - (E) *Development* that deviates from the *historical resources* regulations, as described in Section 143.0210.
 - (2) Where *historical resources* other than *historical districts* or *designated historical resources* are present, unless exempt under Section 143.0220:
 - (A) *Subdivisions*;
 - (B) *Multiple dwelling unit* residential *development*;
 - (C) Commercial or industrial *development*;
 - (D) Public works construction projects; and

- (E) *Development* that deviates from the *historical resources* regulations, as described in Section 143.0210.
 - (3) *Subdivision of a premises* that contains *environmentally sensitive lands*, as described in Section 143.0110.
 - (4) *Development* that deviates from any portion of the *environmentally sensitive lands* regulations, as described in Section 143.0110.
 - (5) *Development* for which the *applicant* seeks a deviation from the applicable development regulations as an additional development incentive to a *density* bonus for affordable housing under Section 143.0750.
- (e) A Site Development Permit decided in accordance with Process Five is required for the following types of development.
- (1) In the Airport Approach Overlay Zone, *development* proposals that receive an FAA determination of hazard and that are not exempt, as described in Section 132.0202.
 - (2) In the Airport Environs Overlay Zone, *development* for which a City Council override is requested, as described in Section 132.0302.
 - (3) In the Clairemont Mesa Height Limit Overlay Zone, *development* for which an exception to the height limit is requested, as described in Section 132.1306.

(Added 12-9-1997 by O-18451 N.S.; amended 6-21-1999 by O-18654 N.S.; effective 1-1-2000.)

[Editors Note: This section only applies outside of the Coastal Overlay Zone. For the corresponding regulation (When a Site Development Permit is Required) within the Coastal Overlay Zone, refer to Land Development Code Section 126.0502, added by City Council on December 9, 1997 by O-18451.]

§126.0503 Decision Processes for Site Development Permits

- (a) Process Three

A decision on an application for a Site Development Permit for the types of *development* listed in Section 126.0502(a), (b) and (c) shall be made in

accordance with Process Three. The decision may be appealed to the Planning Commission in accordance with Section 112.0506.

(b) Process Four

- (1) A decision on an application for a Site Development Permit for the types of *development* listed in Section 126.0502(d) shall be made in accordance with Process Four.
- (2) A recommendation of the Historical Resources Board is required prior to the Planning Commission decision on a Site Development Permit when a *historical district* or *designated historical resource* is present.

(c) Process Five

A decision on an application for a Site Development Permit for the types of *development* listed in 126.0502(e) shall be made in accordance with Process Five.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

§126.0504 Findings for Site Development Permit Approval

A Site Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0504(a) and the supplemental *findings* in Section 126.0504(b) through (l) that are applicable to the proposed *development* as specified in this section.

(a) Findings for all Site Development Permits

- (1) The proposed *development* will not adversely affect the applicable *land use plan*;
- (2) The proposed *development* will not be detrimental to the public health, safety, and welfare; and
- (3) The proposed *development* will comply with the applicable regulations of the Land Development Code.

(b) Supplemental Findings--Environmentally Sensitive Lands

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

- (1) The site is physically suitable for the design and siting of the proposed *development* and the *development* will result in minimum disturbance to *environmentally sensitive lands*;
 - (2) The proposed *development* will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, *flood* hazards, or fire hazards;
 - (3) The proposed *development* will be sited and designed to prevent adverse impacts on any adjacent *environmentally sensitive lands*;
 - (4) The proposed *development* will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan;
 - (5) The proposed *development* will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and
 - (6) The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed *development*.
- (c) Supplemental Findings--Environmentally Sensitive Lands Deviations

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* where a deviation is requested in accordance with Section 143.0150 may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a) and the supplemental *findings* in Section 126.0504(b):

- (1) There are no feasible measures that can further minimize the potential adverse effects on *environmentally sensitive lands*; and
- (2) The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.

- (d) Supplemental Findings--Environmentally Sensitive Lands Deviation from Federal Emergency Management Agency Regulations

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* where a deviation is requested from the Federal Emergency Management Agency regulations as specified in Section 143.0150(b) may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a) and the supplemental *findings* in Section 126.0504(b):

- (1) The proposed *development* will not result in an increase in *flood* levels within any designated *floodway* during the base *flood* discharge; and
- (2) The deviation would not result in additional threats to public safety, in extraordinary public expense, or create a *public nuisance*.

- (e) Supplemental Findings--Steep Hillside Development Area Regulations Alternative Compliance

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to *steep hillsides* where alternative compliance is requested in accordance with Section 143.0151 may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the findings in Section 126.0504(a) and the supplemental *findings* in Section 126.0504(b):

- (1) The proposed *development* is in conformance with the Steep Hillside Guidelines;
- (2) The proposed *development* conforms to the applicable *land use plan*; and
- (3) Strict application of the steep hillside development area regulations would result in conflicts with other City regulations, policies, or plans.

- (f) Supplemental Findings--Important Archaeological Sites and Traditional Cultural Properties

A Site Development Permit required in accordance with Section 143.0210 because of potential impacts to an *important archaeological site* or *traditional cultural property* may be approved or conditionally approved only if the

decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a) :

- (1) The site is physically suitable for the design and siting of the proposed *development*, the *development* will result in minimum disturbance to *historical resources*, and measures to fully mitigate for any disturbance have been provided by the *applicant*; and
 - (2) All feasible measures to protect and preserve the special character or the special historical, architectural, archaeological, or cultural value of the resource have been provided by the *applicant*.
- (g) Supplemental Findings--Historical Resources Deviation for Important Archaeological Sites and Traditional Cultural Properties

A Site Development Permit required in accordance with Section 143.0210 because of potential impacts to an *important archaeological site* or *traditional cultural property* where a deviation is requested in accordance with Section 143.0260 may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

- (1) There are no feasible measures, including a less environmentally damaging location or alternative, that can further minimize the potential adverse effects on *historical resources*;
 - (2) The proposed deviation is the minimum necessary to afford relief and accommodate the *development* and all feasible measures to mitigate for the loss of any portion of the resource have been provided by the *applicant*; and
 - (3) There are special circumstances or conditions apart from the existence of *historical resources*, applying to the land that are peculiar to the land and are not of the applicant's making, whereby the strict application of the provisions of the *historical resources* regulations would deprive the property owner of reasonable use of the land.
- (h) Supplemental Findings--Historical Resources Deviation for Relocation of a Designated Historical Resource

A Site Development Permit required in accordance with Section 143.0210 because of potential impacts to *historical resources* where a deviation is

requested in accordance with Section 143.0260 for relocation of a *designated historical resource* may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

- (1) There are no feasible measures, including maintaining the resource on site, that can further minimize the potential adverse effects on *historical resources*;
 - (2) The proposed relocation will not destroy the historical, cultural, or architectural values of the *historical resource*, and the relocation is part of a definitive series of actions that will assure the preservation of the *designated historical resource*.
 - (3) There are special circumstances or conditions apart from the existence of *historical resources*, applying to the land that are peculiar to the land and are not of the applicant's making, whereby the strict application of the provisions of the *historical resources* regulations would deprive the property owner of reasonable use of the land.
- (i) Supplemental Findings--Historical Resources Deviation for in Substantial Alteration of a Designated Historical Resource or Within a Historical District

A Site Development Permit required in accordance with Section 143.0210 because of potential impacts to *designated historical resources* where a deviation is requested in accordance with Section 143.0260 for substantial alteration of a *designated historical resource* or within a *historical district* or new construction of a *structure* located within a *historical district* may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a) :

- (1) There are no feasible measures, including a less environmentally damaging alternative, that can further minimize the potential adverse effects on the *designated historical resource* or *historical district*;
- (2) The deviation is the minimum necessary to afford relief and accommodate the *development* and all feasible measures to mitigate for the loss of any portion of the *historical resource* have been provided by the *applicant*; and

- (3) The denial of the proposed *development* would result in economic hardship to the owner. For purposes of this finding, “economic hardship” means there is no reasonable beneficial use of a property and it is not feasible to derive a reasonable economic return from the property.
- (j) Supplemental Findings--Clairemont Mesa Height Limit

A Site Development Permit required in accordance with Section 132.1306 because an exception from the Clairemont Mesa height limit is requested may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

- (1) The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area; and
- (2) The granting of an exception is appropriate because there are existing *structures* over 30 feet in height and the proposed *development* will be compatible with surrounding one, two, or three-story *structures*; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the *floor* area of the *structure*.

- (k) Supplemental Findings--Mobilehome Park Discontinuance

A Site Development Permit required in accordance with Section 132.0702 because a discontinuance of a *mobilehome park* is proposed may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

- (1) The discontinuance of use of the land for a *mobilehome park* or *mobilehome* spaces will not deprive the community of a needed facility;
- (2) The discontinuance of use of the land for a *mobilehome park* or *mobilehome* spaces, because of the associated relocation plan and conditions that have been applied to the discontinuance, will not be

detrimental to the public health, safety, and welfare of persons living in the *mobilehome park*; and

- (3) The use to which the *applicant* proposes to put the property will provide a greater public benefit than continued use of the property as a *mobilehome park* or *mobilehome* spaces.

(l) Supplemental Findings--Deviation for Affordable Housing

A *development* that requires a Site Development Permit in accordance with Section 143.0750 because the *applicant* has requested a deviation from the applicable development regulations as an additional incentive to a *density* bonus for providing affordable housing may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

- (1) The proposed *development* will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City;
- (2) The *development* will not be inconsistent with the purpose of the underlying zone.
- (3) The deviation is necessary to make it economically feasible for the *applicant* to utilize an *density* bonus authorized for the *development* pursuant to Section 143.0730.

(Added 12-9-1997 by O-18451 N.S.; amended 6-21-1999 by O-18654 N.S.; effective 1-1-2000.)

[Editors Note: This section only applies outside of the Coastal Overlay Zone. For the corresponding regulation (Findings for Site Development Permit Approval) within the Coastal Overlay Zone, refer to Land Development Code Section 126.0504, added by City Council on December 9, 1997 by O-18451.]

§126.0505 Violations of a Site Development Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Site Development Permit if such a permit is required for the use or *development*, or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Site Development Permit. Violation of any provision of this division shall be subject to the enforcement provisions contained in Chapter 12, Article 1.

Violations of this division shall be treated as strict liability offenses regardless of intent.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)